

REMARKS

Reconsideration and withdrawal of the objections and rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 36-44 are under examination in this application and dependent method claims 110-132 are added, with claims 45-109 cancelled, without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents. Thus, claims 36-44 and 110-132 are pending. It is again noted that method claims tied to product claims must be searched and examined together in this application, pursuant to the February 28, 1996 "Guideline on Treatment of Product and Process Claims ...", published at 1184 TMOG 86 (March 26, 1996) and MPEP §821.04. Claims 110-118 represent previously pending claimed subject matter, now in the form of claims dependent upon claim 36. Accordingly, it is respectfully requested that claims 110-118 be examined with claims 36-44.

Claims 36-44 have been amended without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents.

It is submitted that the claims herewith and the claims as originally presented are and were in full compliance with the requirements of 35 U.S.C. §§101, 102, 103 or 112. The amendments to the claims herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112; but rather, the amendments to the claims are made simply for clarification and to round out the scope of protection to which Applicants are entitled. Support for the amended and new claims is found throughout the specification and from the originally filed claims. No new matter is added by this Amendment.

II. THE OBJECTION TO THE TITLE IS OVERCOME

The Title of the instant invention was objected to on the grounds that it allegedly was not suitably descriptive and a new Title was requested in substitution. The Title was amended from "ORGANISM" to -- TRANSFORMED *BRASSICA* CC GENOME COMPRISING *BRASSICA* AA TRANSPARENT SEED COAT GENE --.

Reconsideration and withdrawal of the objection to the Title is respectfully requested.

III. THE OBJECTIONS TO THE DRAWINGS ARE OVERCOME

The drawings are allegedly objected to for failure to comply with 37 C.F.R. 1.84(a)(1). Applicants note the objections and request that the objections be held in abeyance until the application is allowed. Consequently, reconsideration of the objection to the drawings is respectfully requested.

IV. THE 35 U.S.C. § 112 2ND PARAGRAPH REJECTIONS ARE OVERCOME

Claims 36-44 were rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The rejection is traversed.

Specifically, it was argued that the claims are indefinite in the recitation of "non-naturally occurring" with regard to a *Brassica* genome. Moreover, it was argued that this language does not have a clearly defined meaning and could "mean that the Brassica is not growing in a cultivated area ...[or]...that the genome is isolated from a plant cell."

The term "non-naturally occurring" has been deleted from the claims, without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents.

It is respectfully noted that the term "transformed", refers to products such as cells, plants, genomes, etc. that do not occur naturally but have, instead, been prepared by human intervention-such as by any one or more of selective cross-breeding and/or biotechnological techniques, preferably a process that includes a biotechnological step such as chromosome doubling and/or embryo rescue step (page 6, lines 28-32).

Accordingly, it is respectfully submitted that the amendments to claims 36-44 have rendered the rejection moot (since "non-naturally occurring" is no longer included in the language of the claims).

Thus, reconsideration and withdrawal of the Section 112, second paragraph rejection based on "non-naturally occurring" is respectfully requested.

Claims 36-44 were also rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite in the recitation of "transparent seed coat gene". It is further alleged in the Office Action that the composition of the claimed genome remains unclear since the specification asserts that "transparent seed coat gene" may refer to one gene or a number of genes. The rejection is traversed.

It is respectfully submitted that the amendments to claims 36-44 overcome this rejection since the term "transparent seed coat gene" has been amended to read "one or more exogenous transparent seed coat genes". Since the amended claims now specify that the number of genes can be one or more, the composition of the claimed genome is no longer unclear. Further, Applicants respectfully mention that a definition of the "transparent seed coat gene" is provided in the specification on page 3, lines 22 to 28, which defines the term to include "one or more nucleotide sequences, but preferably at least two nucleotide sequences which are capable of imparting a transparent seed coat... Thus, the term 'transparent seed coat gene' of the present invention can be alternatively stated as being a gene or a number of genes capable of making a seed coat substantially transparent..."

Since information regarding the meaning of the "transparent seed coat gene" is clearly stated in the application, it follows that the claims are definite and that the composition of the claimed genome remains clear and unambiguous.

Thus, reconsideration and withdrawal of the Section 112, second paragraph, rejection based on "transparent seed coat" is respectfully requested.

Claim 37 was also rejected under 35 U.S.C. §112, second paragraph, as being allegedly incomplete for allegedly omitting essential steps which result in a gap between the steps. The omitted step defined by the Office Action is the transfer of the transparent seed coat gene from the AA genome to the CC genome prior to the steps comprising chromosome doubling or embryo rescue.

The rejection is respectfully disagreed with because claim 37 used the claim language "a method comprising", such that the method in claim 37 was not solely limited to the steps recited therein so long as the transformation method includes at least those steps. Claim 37 is a product claim; not a method claim. Thus, unlike a method claim, it need not recite all method steps to prepare the product.

However, to advance prosecution, claim 37 is amended to include "transferring a transparent seed coat gene of a *Brassica* AA genome into a *Brassica* CC genome".

As the application discloses many ways to prepare the transformed plants, e.g., use of the AA genome as a vector for the transparent seed coat gene and use of recombinant DNA techniques (such as with *At* Ti plasmid mediated transformation or biolistic methods), the generic "transferring" step in amended claim 37 is sufficient to address the rejection.

Thus, reconsideration and withdrawal of the Section 112, second paragraph, rejection of claim 37 is also respectfully requested.

Accordingly, reconsideration and withdrawal of the Section 112, second paragraph rejections, are respectfully requested.

V. REJECTIONS UNDER 35 U.S.C. § 112, 1ST PARAGRAPH, ARE OVERCOME

Claims 36-44 were rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors had possession of the claimed invention at the time of filing. Applicants respectfully disagree. It is submitted that the present application provides an adequate written description of the claimed invention. Applicants respectfully offer the following traverse.

The lead case on the written description requirement is *In re Edwards*, 568 F.2d 1349 (C.C.P.A. 1970). The application of that case by the Federal Circuit is the state of the law on the issue. According to *Edwards*, the function of the written description requirement is to:

[E]nsure that the inventor had possession, as of the filing date of the application relied on, of the specific subject matter later claimed by him; to comply with the description requirement, it is not necessary that the application describe the claimed invention in *ipsis verbis*; all that is required is that it reasonably convey to persons skilled in the art that, as of the filing date thereof, the inventor had possession of the subject matter later claimed by him.

(*Id.* at 1351-52).

Thus, determining whether the written description requirement is satisfied requires reading the disclosure in light of the knowledge possessed by a skilled artisan. Applying the law to the instant facts, it is clear possession did exist at the time of filing.

Claims 36-44 are drawn to a transformed *Brassica* CC genome comprising an exogenous transparent seed coat gene from *Brassica* AA. The Office Action alleges that the specification provides no written description of "exogenous transparent seed coat gene". It is further alleged that the claims do not set forth any information regarding the number of genes, their structural features, or their nucleotide sequences even though the specification discloses that the transparent seed coat genes encompass at least four genes (4 loci) in *Brassica napus* and two genes (2 loci) in *Brassica campestris*. Applicants assert that the skilled artisan could readily carry out the invention by following the methodology disclosed in the specification.

Importantly, the skilled artisan would be able to carry out the present invention without the need to know the specific number or genes, their structural features, or their nucleotide sequences.

One skilled in the art would be fully capable of identifying, obtaining, and utilizing a *Brassica* AA genome as a vector for the transparent seed coat gene - a transparent seed coat gene or genes - for use recombinant DNA techniques in plant transformation, and the appropriate antisense technologies for suppressing a dominant black seed coat gene, to facilitate the expression of a transparent seed coat gene or genes.

Indeed, in addition to providing the general techniques for obtaining the claimed product (pages 1-15), the application contains working Examples that obtained the claimed product; and, these products were deposited under the Budapest Treaty, and there is also a disclosure of such a Deposit. Accordingly, contrary to the Office Action, there is indeed a written description of the claimed invention. Note further that all documents cited in the present application are incorporated into the present application by reference. Thus, the application contains the disclosure of the documents cited therein too. And therefore, the application clearly has a written description of the claimed subject matter.

Reconsideration and withdrawal of the Section 112, written description, rejection is respectfully requested.

VI. THE REJECTIONS UNDER 35 U.S.C. § 102 AND 103 ARE OVERCOME

The Invention of the Current Application is Not Anticipated by Prior Art

Claims 36-44 were rejected under 35 U.S.C. § 102(b) as anticipated by Applicants' admitted state of the prior art. The Office Action further contends that Applicants' admitted state of the prior art teaches that *Brassica napus* plants having AACC genomes and having yellow seeds were known at the time of filing of the current application. Moreover, it is stated that the *Brassica* CC genome claimed in the current application is the same as those taught in the prior art since it is not possible to determine by which method the claimed product is prepared. Applicants respectfully disagree with the rejection and offer the following traverse.

It is respectfully asserted that a two-prong inquiry must be satisfied in order for a Section 102 rejection to stand. First, the prior art reference must contain all of the elements of the claimed invention. See *Lewmar Marine Inc. v. Barient Inc.*, 3 U.S.P.Q.2d 1766 (Fe. Cir. 1987). Second, the prior art reference must contain an enabling disclosure. See *Chester v. Miller*, 15 U.S.P.Q.2d 1333, 1336 (Fed. Cir. 1990). A reference contains an enabling disclosure if a person

of ordinary skill in the art could have combined the description of the invention in the prior art reference with his own knowledge of the art to have placed himself in possession of the invention. See *Inre Donohue*, 226, U.S.P.Q. 619, 621 (Fed. Cir. 1985).

Applying the law to the instant facts, the references relied upon by the Office Action in the current rejection do not disclose, suggest or enable Applicants' invention.

The present invention is directed to a seed with both a stable and uniform yellow phenotype with all its advantageous characteristics such as improved digestibility, lower fiber content and increased oil and protein content.

Importantly, it noteworthy that yellow *Brassica* seeds disclosed in the prior art cannot be maintained *in vivo* (see specification page 9, line 7 to 8, 11 to 14, 20 to 23, 27 to 28, 32 and page 10, lines 1 to 2, 9 to 10). Thus, although the cited documents disclose different approaches of obtaining *Brassica napus* plants having an AACC genome characterized with yellow phenotype seeds, none of the plants in any of the cited prior art documents were reported to be stably maintained *in vivo*.

Furthermore, the fact that reported *Brassica* AACC genomes cannot be maintained *in vivo*, implies genetic instability which could be characterized with the loss of the recessive transparent seed coat gene or the acquisition of dominant genes which determine black or brown coat color.

Significantly, however, the present invention overcomes the problem of genome instability and provides a transformed plant organism with stable and uniform yellow color seed. Indeed, claim 36 recites: "whereby the transformed *Brassica* CC plant stably contains the exogenous seed coat genes and produces seeds having a stable and uniform yellow phenotype" to ensure that this distinguishing feature is recited in the claims.

Thus, the plants of the present invention are clearly distinguishable from those of the prior art, because the plants of the present invention have a stable and uniform yellow seed color.

It is respectfully asserted that the present invention is not anticipated or rendered obvious by any of the documents cited in the Office Action or in the present patent application.

Office Action further rejects 36-44 under 35 U.S.C § 102(b) as allegedly anticipated by Jinling *et al.* The Office Action argues that Jinling *et al.* teaches *Brassica napus* plants having AACC genomes and having yellow seeds; thus, they were known at the time of filing the current application. Jingling *et al.* involves the use of multiple interspecific crosses between *Brassica*

campestris (AA) and *Brassica carinata* (BBCC) which eventually produced yellow seed plants with morphology closer to *Brassica napus* with at least some yellow-seed lines carrying the genome *Brassica napus* (AACC, $2n=38$).

The Examiner is respectfully directed to page 9, line 1, of the present application wherein it is stated that "up until the present invention, interspecific crosses in *Brassica* have been carried out...with a view to breeding yellow-seeded *Brassica napus*". Applicants further attest that such interspecific breeding does not result in stable and uniform yellow seed. In contrast, the present invention obtains a stable and uniform yellow phenotype. Thus, it is asserted that the present invention is not anticipated by Jingling *et al.*

Reconsideration and withdrawal of the Section 102 rejections of claims 36-44 is respectfully requested.

Furthermore, experimental evidence demonstrates that the present invention is not anticipated by Jingling *et al* since it can be clearly shown that the plants of the current invention are distinct from the plants of Jinling *et al.* The Examiner is respectfully directed to the Abstract of Jinling *et al* wherein it is reported that "The morphology of the novel yellow-seeded plants was basically towards *B. napus*". The phrase "basically towards" indicates a level of uncertainty as to the known physical properties of the plant. Moreover, it is admitted in Jingling *et al.* that "[e]sterase isoenzyme electrophoresis showed that the plants contained some of the genetic background of *B. campestris*, *B. carinata* and *B. napus*", indicating that the yellow-seeded plants of Jinling *et al.* have characteristics that are shared by these three plant species and that all three plants have made significant contributions to the genetic constitution of the yellow-seeded plant.

In contrast, the source of the yellow-seed coat gene is known to be solely *B. campestris* and not *B. carinata*. As stated in the application, the "transparent seed coat gene in the CC genome of the *B. napus* line No. 06 is the transparent seed coat gene of Yellow Sarson (*B. campestris*) which has been transferred through allosyndesis between the A- and the C- genome chromosomes during development of the line No. 06 from the interspecific cross." It is further stated in the current application that "[t]he possibility that the transparent seed coat gene in the CC genome of the No. 06 was directly derived from the *B. carinata* (BBCC) line was eliminated by the demonstration that the synthesis of trigenomic hexaploids (AABBCC) from the yellow-seeded *B. carinata* x Yellow Sarson (*B. campestris*) crosses failed to produce a transparent seed coat colour..." These results clearly demonstrate that *B. napus* line (No. 06) developed from the

{{*B. carinata* x Yellow Sarson (*B. campestris*)} x *B. napus*} cross carries the gene for transparent seed coat color of Yellow Sarson (*B. campestris*), and not of *B. carinata*, in its CC genome. Further to this, in the present invention it is ensured that an integration of 2 yellow seed coat genes into the CC genome. Since both the original plant source and the quantity of yellow seed coat genes contained in each genome (AACC, 4 loci, 4 genes) is known for the current invention, the current invention cannot be anticipated by or obvious in view of Jingling *et al.* Claims 121-128 are further directed to these aspects of the present invention and are patentably distinguished over Jinling *et al.*. For example, Claim 121 calls for a "transformed *Brassica* CC plant, or cell, tissue, or seed thereof, or genome thereof according to Claim 36 wherein the transformed *Brassica* CC plant, or cell, tissue, or seed thereof, or genome thereof is not derived from *Brassica carinata*"; and, Claim 122 calls for the "method according to Claim 119 wherein the *Brassica* CC genome is not derived from *Brassica carinata*".

Therefore, in consideration of the above remarks, it is respectfully submitted there exists a clear distinction between the present invention and plants of Jinling *et al.*

Reconsideration and withdrawal of the Section 102 rejections of claims 36-44 is respectfully requested.

The Invention of the Current Application is Not Obvious Over Prior Art

Claims 36-44 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Applicants' current state of knowledge of the prior art.

The Examiner is respectfully reminded of the case law, namely, that there must be some prior art teaching which would have provided the necessary incentive or motivation for modifying the reference teachings. *In re Laskowski*, 12 U.S.P.Q. 2d 1397, 1399 (Fed. Cir. 1989); *In re Obukowitz*, 27 U.S.P.Q. 2d 1063 (BOPAI 1993). Further, as stated by the Court in *In re Fritch*, 23 U.S.P.Q. 2d 1780, 1783-1784 (Fed. Cir. 1992): "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggests the desirability of the modification." Also, the Examiner is respectfully reminded that for the §103 rejection to be proper, both the suggestion of the claimed invention and the expectation of success must be founded in the prior art, and not Applicants' disclosure. *In re Dow*, 5 U.S.P.Q.2d 1529, 1531 (Fed.Cir. 1988).

In view of the preceding remarks, Applicants respectfully request reconsideration of this rejection, as claims 36-44 are indeed both novel and nonobvious over any and all references

comprising Applicants' admitted state of knowledge of the prior art. None of the references teach or suggest the presently claimed invention, or any modification thereof to arrive at the present invention.

Specifically, the Office Action states that Applicants' admitted state of prior art teaches that *Brassica napus* plants having AACC genomes and having yellow seeds were known in the art and that while the invention of the current application may be made by a different method, the resulting plant, having an AACC genome and said yellow seeds, would be indistinguishable over the prior art.

The Office Action further argues that even if the said genome of the current invention did in fact differ from the genomes of the prior art, the differences would be insignificant due only to minor morphological variations and would not confer patentable distinction to the claimed genome. Thus, according to the Office Action, the claimed invention would have been *prima facie* obvious over the Applicants' admitted state of the prior art.

Applicants' respectfully disagree and the following traverse is offered.

The presently claimed invention is both novel and not obvious over the prior art in that it is directed to a genome that obtains seeds with both stable and uniform yellow phenotype with all its advantageous characteristics such as improved digestibility, lower fiber content and increased oil and protein content. Since the prior art indicates that yellow *Brassica* seed cannot be maintained *in vivo*, the prior art fails to disclose or suggest the present invention.

Furthermore, no prior art documents teach or suggest how one skilled in the art could overcome the problem of genome instability, which is the supposed problem associated with loss of the yellow seed phenotype in the plants disclosed in the prior art.

Even further still, there is no incentive or motivation for modifying the reference teachings to arrive at the present invention.

Accordingly, the claims, by their terms, distinguish the claimed subject matter patentably from the prior art, and reconsideration and withdrawal of the Section 103 rejection are respectfully requested.

Claims 36-44 were further rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jinling *et al.*

The Office Action argues that Jinling *et al.* teaches *Brassica napus* plants having AACC genomes and having yellow seeds; thus, the present invention was known at the time of filing the current application.

Applicants respectfully disagree.

Jinling *et al.* relates to the use of multiple interspecific crosses between *Brassica campestris* (AA) and *Brassica carinata* (BBCC) which eventually produced yellow seed plants with morphology closer to *Brassica napus* with allegedly at least some yellow-seed lines carrying the genome *Brassica napus* (AACC, $2n=38$).

It is respectfully noted that on page 9, line 1, it is stated that “up until the present invention, interspecific crosses in *Brassica* have been carried out...with a view to breeding yellow-seeded *Brassica napus*”.

Applicants again further attest to the fact that such interspecific breeding does not result in stable and uniform yellow seed in stark contrast to the present invention.

It is still further submitted that the present invention provided for the first time, a stable and uniform transformed *Brassica* CC genome comprising an exogenous transparent seed coat gene.

Furthermore, experimental evidence demonstrates that the present invention is not obvious in view of Jinling *et al.* since it can be clearly shown that the plants of the current invention are distinct from the plants of Jinling *et al.* The Examiner is respectfully directed to the Abstract of Jinling *et al.* wherein it is reported that “The morphology of the novel yellow-seeded plants was basically towards *B. napus*”. The phrase “basically towards” indicates a level of uncertainty as to the known physical properties of the plant. Moreover, it is admitted in Jinling *et al.* that “[e]sterase isoenzyme electrophoresis showed that the plants contained some of the genetic background of *B. campestris*, *B. carinata* and *B. napus*”, indicating that the yellow-seeded plants of Jinling *et al.* have characteristics that are shared by these three plant species and that all three plants have made significant contributions to the genetic constitution of the yellow-seeded plant.

In contrast, the source of the yellow-seed coat gene is known to be solely *B. campestris* and not *B. carinata*. As stated in the application, the “transparent seed coat gene in the CC genome of the *B. napus* line No. 06 is the transparent seed coat gene of Yellow Sarson (*B. campestris*) which has been transferred through allosyndesis between the A- and the C- genome

chromosomes during development of the line No. 06 from the interspecific cross.” It is further stated in the current application that “[t]he possibility that the transparent seed coat gene in the CC genome of the No. 06 was directly derived from the *B. carinata* (BBCC) line was eliminated by the demonstration that the synthesis of trigenomic hexaploids (AABBCC) from the yellow-seeded *B. carinata* x Yellow Sarson (*B. campestris*) crosses failed to produce a transparent seed coat colour...” These results clearly demonstrate that *B. napus* line (No. 06) developed from the {*B. carinata* x Yellow Sarson (*B. campestris*)} x *B. napus*} cross carries the gene for transparent seed coat color of Yellow Sarson (*B. campestris*), and not of *B. carinata*, in its CC genome. Further to this, in the present invention it is ensured that an integration of 2 yellow seed coat genes into the CC genome. Since both the original plant source and the quantity of yellow seed coat genes contained in each genome (AACC, 4 loci, 4 genes) is known for the current invention, the current invention cannot be anticipated by or obvious in view of Jinling *et al.* Claims 121-128 are further directed to these aspects of the present invention and are patentably distinguished over Jinling *et al.*. For example, Claim 121 calls for a “transformed *Brassica* CC plant, or cell, tissue, or seed thereof, or genome thereof according to Claim 36 wherein the transformed *Brassica* CC plant, or cell, tissue, or seed thereof, or genome thereof is not derived from *Brassica carinata*”; and, Claim 122 calls for the “method according to Claim 119 wherein the *Brassica* CC genome is not derived from *Brassica carinata*”.

Thus, the present invention is not rendered obvious by Jinling *et al.*

Accordingly, reconsideration and withdrawal of the Section 103 rejection based on Jinling *et al* is respectfully requested.

REQUEST FOR INTERVIEW

If any issue remains as an impediment to allowance or as an impediment to prosecution on the merits proceeding, a telephonic interview is respectfully requested prior to issuance of any paper other than a Notice of Allowance; and the Examiner is respectfully requested to contact the undersigned to arrange a mutually convenient time and manner therefor.

CONCLUSION

In view of the amendments and remarks herewith, the application is in condition for allowance. Early and favorable reconsideration of the application and reconsideration and withdrawal of the objections to and rejection s of the application, and prompt issuance of a National Allowance are respectfully requested.

Respectfully submitted,

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APPENDIX: VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Kindly amend the claims, without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents, as follows:

36. (Amended) A [non-naturally occurring] transformed *Brassica* [CC genome] CC plant, or cell, tissue, or seed thereof, or genome thereof comprising [an] one or more exogenous transparent seed coat genes obtained from a *Brassica* AA genome, whereby the transformed *Brassica* CC plant stably contains the exogenous seed coat genes and produces seeds having a stable and uniform yellow phenotype.

37. (Amended) [A non-naturally occurring] The transformed *Brassica* [CC genome] CC plant, or cell, tissue, or seed thereof, or genome thereof according to Claim 36 wherein said *Brassica* CC [genome] plant is transformed by a method comprising [the steps of] transferring one or more transparent seed coat genes of a *Brassica* AA genome into a *Brassica* CC genome, chromosome doubling and embryo rescue.

38. (Amended) [A non-naturally occurring] The transformed *Brassica* [CC genome] CC plant, or cell, tissue, or seed thereof, or genome thereof according to Claim 36 wherein the *Brassica* AA genome is an AA genome obtained from a *Brassica* selected from the group consisting of *Brassica campestris*, *Brassica napus* and *Brassica juncea*.

39. (Amended) [A non-naturally occurring] The transformed *Brassica* [CC genome] CC plant, or cell, tissue, or seed thereof, or genome thereof according to Claim 37 wherein the *Brassica* AA genome is an AA genome obtained from a *Brassica* selected from the group consisting of *Brassica campestris*, *Brassica napus* and *Brassica juncea*.

40. (Amended) The [non-naturally occurring] transformed *Brassica* [CC genome] CC plant, or cell, tissue, or seed thereof, or genome thereof according to Claim 38 wherein the *Brassica* AA genome is obtained from *Brassica campestris*.

41. (Amended) The [non-naturally occurring] transformed *Brassica* [CC genome] CC plant, or cell, tissue, or seed thereof, or genome thereof according to Claim 39 wherein the *Brassica* AA genome is obtained from *Brassica campestris*.

42. (Amended) [A non-naturally occurring] The transformed *Brassica* [CC genome] CC plant, or cell, tissue, or seed thereof, or genome thereof according to Claim 36

wherein the transformed *Brassica* [CC genome] CC plant, or cell, tissue, or seed thereof, or genome thereof is a transformed *Brassica napus* CC genome.

43. (Amended) [A non-naturally occurring] The transformed *Brassica* [CC genome] CC plant, cell, tissue, or seed thereof or genome thereof according to Claim 37 wherein the transformed *Brassica* CC genome is a transformed *Brassica napus* CC genome.

44. (Amended) [A non-naturally occurring] The transformed *Brassica* [CC genome] CC plant, cell, tissue, or seed thereof or genome thereof according to Claim 38 wherein the [transformed] *Brassica* CC genome is a [transformed] *Brassica napus* CC genome.